

COMMUNITY ADVISORY GROUP
I-70/Vasquez Blvd. Superfund Site
Denver, Colorado

BY-LAWS

[Adopted by the CAG 9.12.17]

I. STATEMENT OF PURPOSE.

- A. ***Function.*** This Community Advisory Group (hereinafter, “CAG”) is to provide a public forum for representatives of diverse community interests to present their needs and concerns regarding cleanup activities at the I-70/Vasquez Blvd (hereinafter, “I-70/VB”) Superfund site in north Denver, Colorado. This CAG shall be a mechanism for all interested and affected parties in the community and environs to have a voice and actively participate in the Superfund process.¹ This CAG will advocate for and advance implementation of optimum environmental cleanup standards and monitoring, even in excess of required EPA standards.²
- B. ***Focus.*** At this point in time, the principal though not exclusive focus of the CAG’s attention and efforts will be on the cleanup activities in Operating Unit 2 (OU2). This focus may later expand to consideration of planned activities at surrounding operating units and land use plans for properties either within or contiguous to these OUs as related to I70/VB Superfund site matters.
- C. ***Limitations.*** Several government agencies, including EPA Region 8 (“EPA-8”), the City and County of Denver (“CCD”), and the Colorado Department of Public Health and Environment (“CDPHE”) are executing the cleanup at I70/VB, or setting cleanup standards. By law, none of these agencies may delegate its decisional authority to non-governmental actors. As indicated by its name, the CAG acts in an advisory capacity only. However, government agencies involved in the cleanup process should take into meaningful consideration the

¹ Wording in this section was drawn *verbatim* from the U.S. EPA guidance document P894963293, *Guidance for Community Advisory Groups at Superfund Sites* (December, 1995), § 2.1., p. 3. (hereinafter, “EPA CAG Guide”).

² For instance, the Colorado Air Quality Act empowers the Air Quality Commission to set emission standards stricter than federal ones, if a reasonable basis to do so exists.

informed views of CAG members, and especially of CAG information requests and recommendations to government agencies issued by majority vote or consensus by the voting members of the CAG.

- D. ***CAG Administrator.*** To put into effect all of the CAG functions described in these Bylaws, A CAG Administrator shall be appointed by the CAG. Different government agency CAG Administrators may be appointed for varying periods of time during the cleanup, depending on which agency has 'lead agency' authority during which phase of the cleanup. A voting member of the CAG may also serve as CAG Administrator; and lead agency cleanup authority at that point in time shall provide the necessary communications and other support to the Administrator. The CAG shall create an annual calendar of who the Administrator shall be for what periods of time. Full contact information for the person representing that organization shall be included in such calendar.

II. MEMBERSHIP

A. Membership Categories.

1. ***Ex Officio Governmental Members.*** These shall be non-voting members of the CAG, who represent either agencies associated with the cleanup operation, or staff representatives of elected officials. Ex officio members shall comprise no more than one third of the total membership of the CAG.
2. ***Voting Members.*** Voting members of the CAG shall be comprised of
 - Residents or owners of residential property near the site and those who may be directly affected by site releases;
 - Those who potentially may be affected by releases from the site, even if they do not live or own property near the site;
 - Local medical professionals practicing in the community;
 - Representatives of minority and low-income groups;
 - Citizens, environmental, or public interest group members living in the community;
 - Representatives of the local labor community;

- Facility owners and other significant PRPs;
- Those with specialized expertise who might be uniquely qualified to aid the CAG in its deliberations;
- The local business community; and
- Other local, interested individuals.³

B. ***Member Expectations.*** All CAG members are expected to communicate with their local community/group members to share information discussed in the CAG and bring community and/or group concerns to meeting discussions.

Outside of the CAG meetings, members are able to communicate with others, including press. However, these communications are expected to represent their own views rather than speaking for the CAG as a whole.

All CAG members are responsible for reviewing meeting notes as well as any other materials provided. These communications will be made available to all CAG members. It is expected that meeting notes and materials will be made publicly available via agency websites and/or posting at local meeting places.

C. ***Attendance, Alternates, and Resignation of Members.*** Members are expected to either attend monthly meetings of the CAG or send their designated Alternates (a person of the member's own choosing) to represent their interests and—if need be—vote on their behalf. Any member of the CAG who misses 3 consecutive monthly meetings and does not provide for an Alternate to represent them shall be presumed to have resigned from the CAG. Reinstatement may only happen by petition of the resigned member, and an affirmative vote by the voting members of the CAG. Any member who chooses to resign from the CAG should provide written notice (including electronic notice) to the CAG Administrator.

D. ***Expansion of CAG Membership.*** Requests for the addition of members to the CAG shall take the form of either nomination by an existing member of the CAG, or self-nomination by an interested individual or organizational representative. The nomination shall include a statement explaining how the CAG will be made more effective by the addition of the nominee, and how the nominee's status complies with the criteria

³ EPA, *supra* note 1.

listed in § A.2 above. New members shall thereupon be added by majority vote of voting members of the CAG.

E. *Role of EPA Regional Officials Regarding Membership.* Per national EPA guidance documents, “EPA should not select or approve/disapprove individual CAG members, but must certify that the CAG is representative of the diverse interests of the community”.⁴

F. *Other Interested Parties.* In addition to designated members of the CAG, a variety of other interested parties—whether concerned individuals, neighborhood groups, or commercial enterprises—may also have an abiding interest in CAG proceedings and actions, as discussed in EPA guidance documents for CAGs. Therefore, the CAG Administrator shall cause to be created a roster of these additional interested parties, for receipt of rough and final CAG agenda drafts by the same means they are transmitted to members.

III. MEETINGS.

A. *Forms of Meeting.* Meetings of the CAG may take several forms, including general purpose meetings, special purpose meetings, and task force or committee meetings. General purpose meetings shall be held on a monthly basis, calendared by year.

B. *Agendas for General Meetings.*

1. ***Creating the Agenda.*** Generally, the agenda should be set by CAG members at one meeting for administration at the next meeting. Subsequent to the meeting, member of the CAG may propose an agenda item to the CAG administrator⁵ for inclusion in the next meeting's agenda within 9 calendar days of the meeting (see B.2. below). The greater the number of CAG members requesting that an agenda item be docketed for consideration, the higher the priority that item should receive for agenda planning purposes.
2. ***Schedule.*** The draft agenda prepared at each CAG meeting shall be electronically distributed to all CAG members no later than 2 calendar

⁴ EPA, *supra* note 1, at § 4.3, p. 8

⁵ “Administrator” may include a representative of EPA region 8, CCD, CDPHE, or a chosen member of the CAG, depending on the OU or issue that is under discussion.

days after each meeting. CAG members shall then have 7 calendar days within which to propose additions or amendments to the Administrator. Based on this input, within 3 calendar days the CAG Administrator prepare a final agenda, for forwarded for Spanish language translation. This will then result in the final agenda in both translations will be posted on all appropriate government websites and the CAG website no later than 7 calendar days prior to the next meeting.

3. ***Organizing the Agenda.*** General meeting agendas shall be organized into three sections: *Information* items, *Discussion* items, and *Action* items (eg., resolutions or Bylaws amendments requiring a vote of the CAG). After approval of the previous meeting's minutes, the next agenda item at each meeting will be a monthly update on the status of the cleanup shall be presented, along with a summary of the latest site monitoring report and any actions that were taken to address problems identified in that Report.

C. Process at General Meetings.

1. ***Action.*** In determining the process to be followed when the CAG determines to take action, there will be a general balance sought between keeping the meetings informal enough to invite all members' participation, yet formal enough to ensure that due process is observed. Final discussion on and votes on action items shall be done in conformance with Roberts Rules of Order, as needed. In taking action, voting members of the CAG shall determine the method of voting: that is, whether to use a show of hands at the meeting, a private ballot at the meeting, or subsequent electronic voting.
2. ***Conduct of Members and Visitors.*** All participants will abide to the following communication guidelines when attending the CAG meetings.
 - Members will arrive on time for every meeting.
 - Members are asked to place their phones on silent mode for the duration of the meeting.
 - Members are expected to conduct themselves in a courteous and respectful manner with others in the meeting. This includes the

government agencies (City, EPA, CDPHE) as well as any other guests (Subject Matter Experts, etc.)

- Personal attacks, threatening or abusive language, shouting, throwing stuff, continually interrupting others and other disruptive behavior are considered violations to being respectful. If a member exhibits this type of behavior, the meeting chair or facilitator will warn him/her. If the behavior continues, the member will be asked to excuse himself/herself from the meeting. In this circumstance, if the member does not leave the meeting, security may be required to escort the member out. If this behavior continues in multiple meetings, the facilitator has the right to replace this member with another community individual.
- Every member is encouraged to participate in the meetings. To keep the meeting organized, members will speak only when they have the floor or called upon by the meeting chair or facilitator, and will not interrupt. Members will raise their hands to be recognized by the facilitator as needing to speak.
- Members are encouraged to listen and take notes during each meeting. Members are encouraged to share the floor such that many viewpoints can be heard, and stay on the topic being discussed. The facilitator will ensure that all members have the opportunity to be heard, and the conversation is focused on the topic(s) under discussion. The facilitator will ensure all topics are discussed without placing stronger focus on one topic over another. Facilitator will also acknowledge that on some occasions the agenda items may need to be placed on hold while discussing a newly emerged topic that is considered important and essential.
- Members understand that there can be multiple viewpoints on different subjects, and will be respectful of other people's ideas or situations when they talk.
- Guests and other meeting attendees are welcome to attend, and time will be allocated at the end of each meeting for guests to be heard.

3. ***Role of the Government Agencies Generally.*** The primary role of the government agencies is to provide CAG members with concise, timely, accurate, and germane information concerning the specifics of cleanup actions, any areas of concern noted, and any specific actions taken to effectively contain any sources of unexpected toxins or hazardous materials. At each general meeting, the agencies will present a summary of the contents of the latest monitoring reports, including in such summary a discussion of the items noted in the previous sentence, and respond to CAG member requests for clarification of information presented.

4. ***EPA as Lead Agency.*** When the EPA Region 8 is acting in the capacity of Lead Agency, its representatives(s) shall attend CAG meetings to provide information and technical expertise on Superfund site cleanup; facilitate discussion of issues and concerns relative to Superfund actions; listen and respond to views expressed by CAG members, giving them substantial consideration when making site decisions, especially when views are those of most or all CAG members; work with others, as appropriate, to support and participate in training to be provided to CAG members; and assist the CAG with administrative and logistical support and meeting facilities.⁶

IV. COMMUNICATION

- A. ***Internal Communication.*** Various forms of internal CAG member communication, whether to the full membership, to sub-groups, or to individual members may include electronic, phonic, or in person. By prior agreement of the CAG membership, action as well as discussion and information sharing may be based on electronic communication.
- B. ***External Communication.*** All members of the CAG are encouraged to regularly inform their respective constituencies of activities at the cleanup site, including any concerns those activities might raise. Members are also free to speak with the press, as long as they make it clear that they are speaking for themselves and not as a spokesperson for the CAG.

⁶ See EPA CAG Guidelines, *supra* note 1, at § 10.3